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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/814,478	03/31/2004	Mario Stigler	0275M-911/CO	7889
27572	7590	05/10/2005	EXAMINER	
HARNESS, DICKEY & PIERCE, P.L.C. P.O. BOX 828 BLOOMFIELD HILLS, MI 48303			WUJCIAK, ALFRED J	
			ART UNIT	PAPER NUMBER
			3632	

DATE MAILED: 05/10/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/814,478

Applicant(s)

STIGLER, MARIO

Examiner

Alfred Joseph Wujciak III

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 March 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2 and 4-17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2 and 4-17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 02 March 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This is the final Office Action for the serial number 10/814,478, RETAINING CLIP WITH OFFSET LATCHING FINGERS, filed on 3/31/04.

Drawings

The drawings were received on 3/2/05. These drawings are approved.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-17 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claims 1 and 12, the phrase "particular" renders the claim indefinite because it is unclear whether the limitation(s) following the phrase are part of the claimed invention. See MPEP § 2173.05(d).

Claim 12, line 4, "patrician" is indefinite and it should be ---partition for clarification.

Claim 17 recites the limitation "outer walls" in lines 1-2. There is insufficient antecedent basis for this limitation in the claim.

Claims 2 and 4-11 are depending on rejected claim 1 and claims 13-16 are rejected as depending on rejected claim 12.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-2, 4-14 and 16-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tomoyoshi in view of US Patent # 5,947,426 to Kraus.

Tomoyoshi teaches a retaining clip (figure 1, page 6) having a base part (2) with receivers (7) and at least one partition (upright part of base part (2)). The partition comprises a front side and a rear side having at least one first latching finger (8) at the front side and at least one second latching finger (8) at the rear side of the partition. The width of each latching finger is smaller than the width of the partition. The first latching finger is arranged offset relative to the second latching finger (figure 1). The partition is elbowed (a wall located underneath latching finger and adjacent to curve part of element 7) between the offset latching fingers. The partition has an opening in the form a slot (figure 2, b, page 5). The clip comprises outer walls (located on both end of clip and adjacent to element 9) having at least one latching finger (8). The outer walls are reinforced by reinforcing structures (9-10).

Tomoyoshi teaches the first latching finger is arranged laterally offset relative to the second latching finger but fails to teach the distance between the first finger and second finger is 5 to 20% of the width of the partition. It would have been obvious for one of ordinary skill in the art at the time the invention was made to have modified distance between first latching finger

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and second latching finger to 5 to 20% of width of partition to prevent the first latching finger from interfering the second latching finger when an object is secured in the receiver.

In regard to claim 6, Tomoyoshi teaches the latching finger but fails to teach the ratio of latching finger width is between 1:4 and 1:2 or 2:5. It would have been obvious for one of ordinary skill in the art at the time the invention was made to have modified the ratio of width for the latching finger to between 1:4 and 1:2 or 2:5 to prevent the first latching finger from interfering the second latching finger when an object is secured in the receiver.

Tomoyoshi teaches the partition and latching fingers but fails to teach the partition is elbowed between the latching fingers. Kraus teaches the partition (36) is elbowed (adjacent to slot of 46) between the offset latching fingers (39). It would have been obvious for one of ordinary skill in the art at the time the invention was made to have added elbow to Tomoyoshi's partition and latching fingers as taught by Kraus to provide support for the both fingers to remain in an upright configuration when an object is inserted in the receiver which will cause the fingers to move in different direction from each other.

In regards to claim 5, Tomoyoshi teaches the partition but fails to teach both sides of the partition having two or more vertically offset latching fingers. Kraus teaches the partition having two vertically offset latching fingers (26-27). It would have been obvious for one of ordinary skill in the art at the time the invention was made to have added additional vertically offset

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latching fingers to Tomoyoshi's partition to provide additional security for retaining an object within the clip.

In regards to claim 9, Tomoyoshi teaches the retaining clip but fails to teach the retaining clip is made of elastic plastic material. Kraus teaches the retaining clip (1) manufactured by plastic material (col. 2, line 32). It would have been obvious for one of ordinary skill in the art at the time the invention was made to have modified Tomoyoshi material to plastic material as taught by Kraus to provide flexibility in the retaining clip for convenience in removing an object from the clip without breaking it.

Allowable Subject Matter

Claim 15 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

The prior art fails to teach wherein both sides of the partition two or more vertically offset latching fingers are disposed respectively.

Response to Arguments

Applicant's arguments filed 3/2/05 have been fully considered but they are not persuasive.

The applicant disagree that Kraus's invention shows elbow connecting the latching fingers. See the drawing below that the examiner indicated the location of elbow in Kraus

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invention. The elbow in Kraus's invention is in between the two latching fingers and it maintains the latching fingers within the clip.

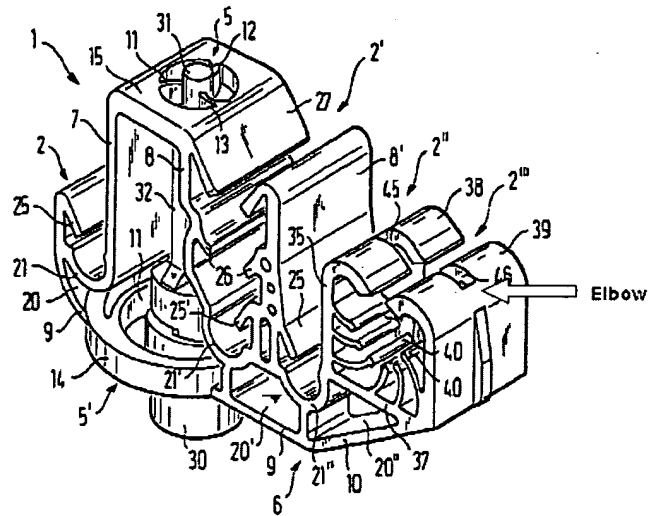
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FIG. 4



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With respect to applicant's argument on page 9 stating that it is not an obvious to have modified the distance between Tomoyoshi's first and second latching fingers to 5 to 20% of the width of the partition. Since Tomoyoshi teaches the first and second latching fingers and that they are distance from each other but fails to teach specific measurement for distance, it is obvious to have modified the distance to meet designer's preference of length between the first and second latching fingers.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alfred Joseph Wujciak III whose telephone number is (571) 272-6827. The examiner can normally be reached on 8am-4:30pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Leslie A Braun can be reached on (571) 272-6815. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Alfred Joseph Wujciak III
Examiner
Art Unit 3632

ASW


ANITA KING
PRIMARY EXAMINER

5/3/05